High Maintenance Bitch LLC v. Uptown Dog Club Inc Doc. 8

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

HIGH MAINTENANCE BITCH, LLC, a Washington LLC, Plaintiff, v. UPTOWN DOG CLUB, INC., a Texas Corporation Defendants.	Civil Action No. C07-0888-RSL DECLARATION OF STEVEN P. FRICKE IN SUPPORT OF DEFENDANT'S MOTION AND MEMORANDUM TO DISMISS FOR LACK OF PERSONAL JURISDICTION PURSUANT TO CIVIL RULE 12(B)(2) AND IMPROPER VENUE, OR ALTERNATIVELY, TO TRANSFER AND FOR PLAINTIFF TO PROVIDE A MORE DEFINITE STATEMENT

Steven P. Fricke states and declares as follows:

1. I am one of the attorneys for Defendant Uptown Dog Club, Inc. ("Uptown Dog"). I make this declaration in support of Defendant's Motion And Memorandum To Dismiss For Lack Of Personal Jurisdiction Pursuant To Civil Rule 12(B)(2) And Improper Venue, Or Alternatively, To Transfer And For Plaintiff To Provide A More Definite Statement. I have personal knowledge of the facts set forth in this declaration.

Townsend and Townsend and Crew LLP
1420 Fifth Avenue, Suite 4400
Seattle, WA 98101-2325
(206) 467-9600
Attorneys for Plaintiffs

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2. Attached hereto as Exhibit 1 is a true and correct copy of Dallas Business Journal June 29, 2007, "Local Pet Supply Store Sues To Protect Feather Boa."

3. Attached hereto as Exhibit 2 is a true and correct copy of High Maintenance Bitch web site.

4. Attached hereto as Exhibit 3 is a true and correct copy of email string between Steven P. Fricke and Danny Bronski.

5. Attached hereto as Exhibit 4 is a true and correct copy of the court's order dismissing plaintiiff's cause of action in *Snyder v. Pinal*, C.A. No. 02-124-GMS (D. Del. 2002).

Dated this 13th day of July, 2007, in Seattle, Washington.

s/Steven P. Fricke

Townsend and Townsend and Crew LLP
1420 Fifth Avenue, Suite 4400
Seattle, WA 98101-2325
(206) 467-9600
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Local pet supply store sues to protect feather boa

Knock-off dog collars sold around the country draw fire from Seattle store that holds the patents

Puget Sound Business Journal (Seattle) - June 29, 2007 by Heidi Dietrich Staff Writer

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The claws are out at **High Maintenance Bitch**.

The local pet supply shop has filed three lawsuits to protect its signature feather boas for dogs, and says it plans to unleash a number more.

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The store claims pet shops around the country have copied its "pet feathers" product -- a pet collar with a feather boa around it -- which carries three patents.

"We've decided to take a very aggressive approach to defending our intellectual property," said Lori Pacchiano, the store's co-owner.

The three lawsuits filed this month name Little Rock, Ark.-based **B.A. Barker Inc.**, Los Angeles-based **Innovative Spotlight Inc.**, and Frisco, Texas-based **Uptown Dog Club Inc.** as patent violators.

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Exhibit 1

The lawsuits ask the stores to stop selling imitation "pet feathers" made by companies other than High Maintenance Bitch, and request an unspecified amount in damages for lost sales.

Daniel Bronski, an attorney with Seattle-based **VeriTrademark** who is representing the Pacchianos, said High Maintenance Bitch plans to sue several larger retailers and manufacturers. He declined to name them.

Lynn Webb, owner of B.A. Barker, said she is baffled by the suit because B.A. Barker is a small shop that gives half of its profit to pet rescue.

"I don't think we're a threat to anyone," Webb said.

Another shop owner, Lisa Woody of Uptown Dog Club, said she was surprised the Pacchianos are suing retailers, and not just the numerous manufacturers who make version of pet boas.

"It's not common practice for retailers to verify that manufacturers have the rights to a product," Woody said.

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Local pet supply store sues to protect feather boa

Knock-off dog collars sold around the country draw fire from Seattle store that holds the patents

Puget Sound Business Journal (Seattle) - June 29, 2007 by Heidi Dietrich Staff Writer

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Although the company's pet boas carry patent numbers on the tags, similar products are now sold at pet stores around the country, including several in Seattle. Pacchiano said she worries that the imitation boas won't be of the same quality or safety standards as High Maintenance Bitch's pet feathers, potentially degrading the product.

"It's very frustrating to see so many people will copy something," Pacchiano said.

Both Webb and Woody say they don't sell a large number of pet boas. Webb took the boas off B.A. Barker's website because they weren't very popular, and has sold just one in the store. At Uptown Dog Club, most revenue comes from beds, treats, toys and apparel other than the pet feathers, Woody said.

High Maintenance Bitch began in 2002 when brother and sister Ryan and Lori Pacchiano began selling handmade pet boas out of their grandmother's garage. When the boas proved a hit, the Pacchianos went to an attorney to

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secure patents on the designs.

"The lawyer thought we were a little nuts," Lori Pacchiano said.

The pet feather then transitioned into the celebrity sphere, winning a spot on Entertainment Weekly's "Hot 100" list and landing in the 2003 Golden Globes gift basket. The pet feather, which sells for between $16 and $35 depending on the model at the company's store in Seattle's Wallingford district, can command a $50 price tag at some Beverly Hills boutiques, she said.

"High Maintenance Bitch is known globally as the celebrity pet company," she said.

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The company's name also helped the company make a splash. Though some retailers were uncomfortable with the label, others embraced the edginess. The controversy boosted company visibility and brought press coverage, the Pacchianos said.

The company decided to file the lawsuits now because its growth has given it the resources to do so. The pet boas are now sold wholesale at hundreds of pet stores in the U.S. and at the Wallingford store, which is independently owned.

The company plans to open 10 stores around the country over the next three years. The company is not disclosing all of the locations, but Lori Pacchiano said they want a Bellevue shop.

Contact: hrdietrich@bizjournals.com • 206-447-8505x112

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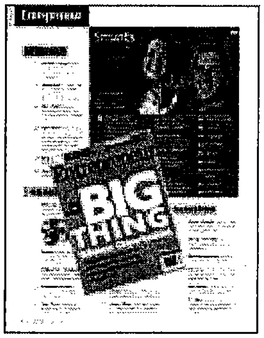


As seen in Entrepreneur 7/03!

Welcome to High Maintenance Bitch™

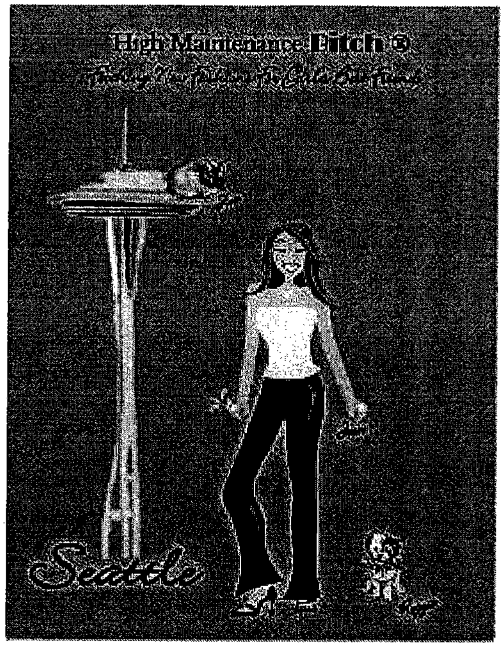
The *Pet Feather*™ is the hottest new fashion for pets. They are not meant to be serious but seriously fun. Click here to shop our entire line of pet products!

Our goal at HMB is to keep your pet looking as beautiful and confident as you. The *Pet Feather*™ enhances the natural beauty of your pet yet allows them to behave freely.

Our trendy name, product and marketing appeals to the growing n female pet owners. And with our success we are helping homeless find new homes with *There's No Place Like Home*.

Exhibit 2

As seen in Seattle Magazine!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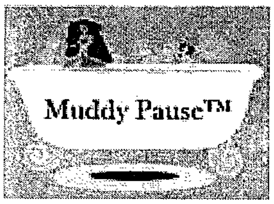
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a store near you

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Tinkerbell is wearing Doggie Disco Diamonds featured on DVD jacket

The Martini Collect

The Motion Picture "Mean Girls" patented "Lipstick Frozen Martini" Pet Feather featured in film

Modern Dog Magazine
Illustration by HMB

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She wags her tail for diamonds

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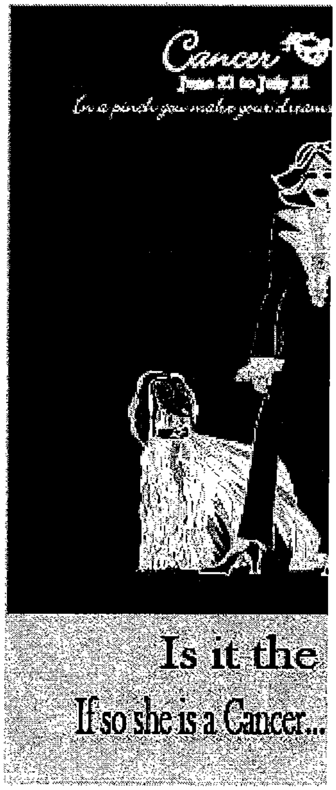

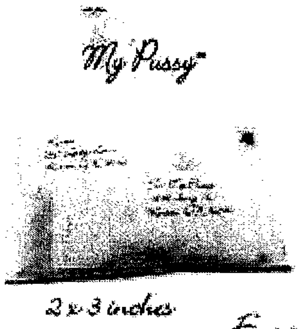
My Pussy
2 x 3 inches

Love Letter
Fine paper, sweet words, and a special treat
edible lavender and catnip inside

LUCKY BITCH

While
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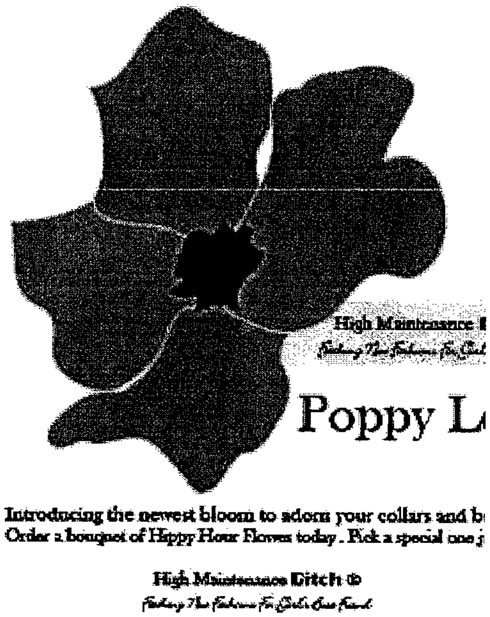
Little Bow Peep Show
Newdy!!!
to will surely show off her innocence

Bow Peep
she's all tied up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Poppy L
Introducing the newest bloom to adorn your collars and b
Order a bouquet of Happy Hour Flowers today. Pick a special one
High Maintenance Bitch

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Open your own High Maintenance Bitch ® store in your city

Wish you were a dog yet?
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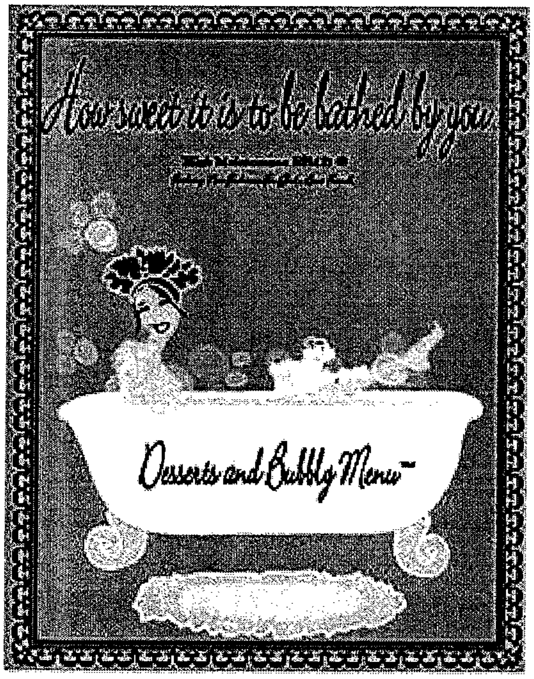
How sweet it is to be bathed by you
Desserts and Bubbly Menu

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Blend the Timeless Glamour and Charm of Yesterday
With the Spirit and Energy of Today
HMB does not believe in killing animals for fashion but we do believe in recycling and honoring the fashion of our grandmothers. If you have a Vintage fur, HMB can help you turn it into a fur coat for her and a matching stole for you.

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MY LIFE ON THE d-LIST
Bravo
watch what happens

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Patent # US D468,491S and multiple patents pending on all products, copycats beware

Fricke, Steven P.

From: Danny Bronski [danny@veritrademark.com]
Sent: Tuesday, July 10, 2007 5:10 PM
To: Fricke, Steven P.
Cc: 'Jim Ruttler'
Subject: RE: FOR SETTLEMENT PURPOSES ONLY

We are thinking that you have more of a vested interest in driving the settlement process, and we are in a position to sit back and evaluate your offers because, unlike your implications, the ball is not in our court in any way. The only guideline I can give you is that unless the offer is in six figures, it should be accompanied by persuasive evidence as to why damages are not that high; I think total sales figures since 2003 broken down intuitively and/or audited financials would be very helpful here as a starting point to move this along efficiently. If you aren't willing to provide us that information, the offer should be high enough that we can be persuaded that it was worth our while to operate on imperfect information.

From: Fricke, Steven P. [mailto:spfricke@townsend.com]
Sent: Monday, July 09, 2007 2:15 PM
To: Danny Bronski
Cc: Jim Ruttler
Subject: RE: FOR SETTLEMENT PURPOSES ONLY

Danny,

We have not admitted infringement of any kind. If you inform us of which models infringe, I may be able to get you the accurate sales figures.

Regarding restitution, what is your client seeking?

Steve

-----Original Message-----
From: Danny Bronski [mailto:danny@veritrademark.com]
Sent: Monday, July 09, 2007 2:10 PM
To: Fricke, Steven P.
Cc: 'Jim Ruttler'
Subject: FOR SETTLEMENT PURPOSES ONLY

Hi Steven,

Unfortunately, we cannot accept your recommendation, nor can we take you at your word as to the extent of the infringement without seeing hard evidence.

On the one hand, I agree with you that quick settlement prior to answering the complaint is preferable for your clients so that they save on attorneys fees and keep more resources open for settlement, and may be economically efficient if the damages are indeed fairly small. On the other hand, our position is that you have more or less conceded infringement and we've certainly met our prefiling due

Exhibit 3

diligence requirements, and if you want to settle quickly rather than allowing us to go through the procedures set up by federal court system that we would prefer (to determine the true nature and extent of infringement through discovery), please initiate the discussion with a more serious settlement offer.

Please keep in mind that my client has expended a significant amount of resources acquiring patent protection and building a business around their creative ideas, and has been harmed by widespread infringement of these patented ideas. As a result, we intend to see that our client is protected to the extent permitted by law.

Any settlement must include three components:

1) Significant financial restitution for infringement to date
2) An agreement not to infringe in the future (or, alternatively, to license the patents)
3) A confidentiality agreement

Alternatively, you can respond to the complaint and we can proceed with discovery.

Thanks,
Danny Bronski

From: Fricke, Steven P. [mailto:spfricke@townsend.com]
Sent: Tuesday, July 03, 2007 8:46 AM
To: Danny Bronski
Cc: Jim Ruttler
Subject: RE: HMB Patent Infringement Litigation

Danny,

Transparency goes both ways.

For my clients to provide sales figures, it must know which figures you are requesting. Prior to filing your lawsuit, you must have completed a good faith analysis of the products that you believe are infringing. As a result, we are not asking for anything that should not have been completed already and that would come out in discovery. If you prefer, we will file a motion with the Court requesting that you provide us with such information prior to our answering the complaint. However, that should be unnecessary.

As with any litigation, it is best to settle prior to the parties begin paying a lot for attorneys. That way, there should be more resources available for settlement and the clients will not have dug in their heels.

Based upon my understanding, B.A. Barker sold one feather boa collar to a person in South Carolina for about $6.00. Uptown Dog sold approximately $500 of Dog Collars (some which may not fall within your accusations). Assuming you can prove infringement and followed other statutory requirements, your client may be entitled to a reasonable royalty. I don't know what that would be in this market but it would be a lot. Moreover, I do believe neither Judge Coughenour nor Judge Zilly will appreciate having this matter taking up their time when they find out damages are so low and we have agreed to stop selling the accused dog collars.

Here is what I recommend for a prompt settlement:

Your client dismisses these cases without prejudice and we agree not to sell certain type of dog collars. (You will have to inform us of what type of dog collars would be precluded from future sales activities). Each party is responsible for its own attorneys fees and costs.

Please let me know if this is acceptable to you.

Sincerely,
Steve Fricke
-----Original Message-----
From: Danny Bronski [mailto:danny@veritrademark.com]
Sent: Monday, July 02, 2007 9:39 PM
To: Fricke, Steven P.
Cc: 'Jim Ruttler'
Subject: RE: HMB Patent Infringement Litigation

Hi Stephen,

We will take that risk. The nature and extent of the infringement will come out in discovery. If your client is willing to be completely transparent in sharing financial information, this will go a long way toward a quicker settlement. I don't believe it is appropriate to provide you with model numbers or anything else that implies a limitation on our damages at this time.

I will be back in town next week and I have also cc'ed my co-counsel Jim Ruttler.

Thanks,
Danny Bronski

From: Fricke, Steven P. [mailto:spfricke@townsend.com]
Sent: Monday, July 02, 2007 4:43 PM
To: Danny Bronski
Subject: RE: HMB Patent Infringement Litigation

Danny,

B.A. Barker and Uptown Dog have requested that I represent them in the litigation matters pending before U.S. District Court for Western Washington. I understand that you do not want to discuss the cases until after an answers or responses to the complaints are filed. At this time, my clients do not know which products are actually accused of infringement. As a result, please provide me with the models your client is accusing of infringement. This would go a long way towards reaching a settlement in this matter.

For your information, both of my clients have not sold very many collars. As a result, damages will be very low -- if at all. I'm not sure what your client is seeking in this litigation but it runs a big risk of not being able to recoup its fees and costs in these actions.

I will be out of the country during the week of July 15. As a result, I will not be able to confer with you until the final week of July.

Sincerely,

Steven P. Fricke
Townsend and Townsend and Crew LLP
1420 Fifth Avenue
Suite 4400
Seattle, WA 98101
Phone: 206.224.2855
Fax: 206.623.6793

spfricke@townsend.com

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-----Original Message-----
From: Danny Bronski [mailto:danny@veritrademark.com]
Sent: Sunday, July 01, 2007 5:09 PM
To: Fricke, Steven P.
Subject: HMB Patent Infringement Litigation

Hi Stephen,

Thank you for the call on Friday. I am writing to let you know that I prefer to avoid any settlement negotiations or discussion of the case until service has been confirmed and perhaps until an answer has been filed. In any event, I will be out of town this week. Please direct all communication to this email address and we can schedule a phone conference to discuss settlement later this month.

Kind regards,
Danny Bronski

Danny Bronski
VeriTrademark
Attorney

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Danny@VeriTrademark.com
VeriTrademark
216 First Avenue S #210
Seattle, WA 98104
http://www.VeriTrademark.com

Fricke, Steven P.

From: Fricke, Steven P.
Sent: Tuesday, July 03, 2007 9:10 AM
To: Fricke, Steven P.; 'Danny Bronski'
Cc: 'Jim Ruttler'
Subject: RE: HMB Patent Infringement Litigation

Typo in the first message. The sentence should read as:

I don't know what that would be in this market but it would **not** be a lot.

-----Original Message-----
From: Fricke, Steven P.
Sent: Tuesday, July 03, 2007 8:46 AM
To: 'Danny Bronski'
Cc: 'Jim Ruttler'
Subject: RE: HMB Patent Infringement Litigation

Danny,

Transparency goes both ways.

For my clients to provide sales figures, it must know which figures you are requesting. Prior to filing your lawsuit, you must have completed a good faith analysis of the products that you believe are infringing. As a result, we are not asking for anything that should not have been completed already and that would come out in discovery. If you prefer, we will file a motion with the Court requesting that you provide us with such information prior to our answering the complaint. However, that should be unnecessary.

As with any litigation, it is best to settle prior to the parties begin paying a lot for attorneys. That way, there should be more resources available for settlement and the clients will not have dug in their heels.

Based upon my understanding, B.A. Barker sold one feather boa collar to a person in South Carolina for about $6.00. Uptown Dog sold approximately $500 of Dog Collars (some which may not fall within your accusations). Assuming you can prove infringement and followed other statutory requirements, your client may be entitled to a reasonable royalty. I don't know what that would be in this market but it would not be a lot. Moreover, I do believe neither Judge Coughenour nor Judge Zilly will appreciate having this matter taking up their time when they find out damages are so low and we have agreed to stop selling the accused dog collars.

Here is what I recommend for a prompt settlement:

Your client dismisses these cases without prejudice and we agree not to sell certain type of dog collars. (You will have to inform us of what type of dog collars would be precluded from future sales activities). Each party is responsible for its own attorneys fees and costs.

Please let me know if this is acceptable to you.

Sincerely,
Steve Fricke
-----Original Message-----
From: Danny Bronski [mailto:danny@veritrademark.com]
Sent: Monday, July 02, 2007 9:39 PM
To: Fricke, Steven P.

Cc: 'Jim Ruttler'
Subject: RE: HMB Patent Infringement Litigation

Hi Stephen,

We will take that risk. The nature and extent of the infringement will come out in discovery. If your client is willing to be completely transparent in sharing financial information, this will go a long way toward a quicker settlement. I don't believe it is appropriate to provide you with model numbers or anything else that implies a limitation on our damages at this time.

I will be back in town next week and I have also cc'ed my co-counsel Jim Ruttler.

Thanks,
Danny Bronski

From: Fricke, Steven P. [mailto:spfricke@townsend.com]
Sent: Monday, July 02, 2007 4:43 PM
To: Danny Bronski
Subject: RE: HMB Patent Infringement Litigation

Danny,

B.A. Barker and Uptown Dog have requested that I represent them in the litigation matters pending before U.S. District Court for Western Washington. I understand that you do not want to discuss the cases until after an answers or responses to the complaints are filed. At this time, my clients do not know which products are actually accused of infringement. As a result, please provide me with the models your client is accusing of infringement. This would go a long way towards reaching a settlement in this matter.

For your information, both of my clients have not sold very many collars. As a result, damages will be very low -- if at all. I'm not sure what your client is seeking in this litigation but it runs a big risk of not being able to recoup its fees and costs in these actions.

I will be out of the country during the week of July 15. As a result, I will not be able to confer with you until the final week of July.

Sincerely,

Steven P. Fricke
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-----Original Message-----
From: Danny Bronski [mailto:danny@veritrademark.com]
Sent: Sunday, July 01, 2007 5:09 PM
To: Fricke, Steven P.
Subject: HMB Patent Infringement Litigation

Hi Stephen,

Thank you for the call on Friday. I am writing to let you know that I prefer to avoid any settlement negotiations or discussion of the case until service has been confirmed and perhaps until an answer has been filed. In any event, I will be out of town this week. Please direct all communication to this email address and we can schedule a phone conference to discuss settlement later this month.

Kind regards,
Danny Bronski

Danny Bronski
VeriTrademark
Attorney

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RICHARD SNYDER, Plaintiff, v. RENEE PINAL, Defendant.	))))))))))	C.A. No. 02-124-GMS

MEMORANDUM AND ORDER

On February 12, 2002, the plaintiff, Richard Snyder, filed a complaint suing the defendant, Renee Pinal, for damages resulting from the defendant's alleged failure to refund rent. The leasehold in question is located in Mexico. (D.I. 1 at ¶ 3.) The complaint states that the defendant "is believed to be a citizen of both Mexico and the United States." (*Id.* at ¶ 1.) The plaintiff further alleges that the defendant "maintains residences in California and possibly elsewhere in the United States as well as Mexico." (*Id.* at ¶ 2.) The complaint contains no further statements regarding the defendant's residence or domicile. Snyder is a Delaware resident.

Upon reviewing the complaint and the applicable law, the court finds that it lacks personal jurisdiction over the defendant. The court will, therefore, dismiss this action sua sponte for lack of jurisdiction.[1]

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[1] The court has the obligation to review issues of personal jurisdiction independently and can dismiss cases sua sponte where it finds jurisdiction lacking. *See, e.g., Meritcare, Inc. v. St. Paul Mercury Ins. Co.*, 106 F.3d 214, 217 (3d Cir. 1999) (citing cases).

I. DISCUSSION

A. Standard of Review

In determining the presence of personal jurisdiction, courts engage in a two step analysis. First, the court must decide whether the long arm statute of the state in which the court sits authorizes jurisdiction. Second, the court must determine whether exercising jurisdiction comports with the requirements of the Due Process Clause of the Fourteenth Amendment. *See, e.g., Compaq Computer Corp. v. Packard Bell Elec., Inc.*, 948 F. Supp 338, 342 (D. Del. 1996) (citation omitted). For Snyder to satisfy the second prong of this analysis, the court must find the existence of "minimum contacts" by Pinal. *See Transportes Aeros de Angola v. Ronair, Inc*, 544 F. Supp. 868, 865 (D. Del. 1982)(citing International Shoe Co. v. Washington, 326 U.S. 310 (1945). Specifically, Snyder must show that Pinal "purposefully avail[ed] . . . [himself] of the privileges of conducting activities within [the state]." *See Asahi Metal Industry Co. v. Superior Court*, 480 U.S. 102, 108-09 (1987); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985). Unless the contacts are continuous, systematic, and substantial, they must be related to Snyder's cause of action. *See Helicopteros Nacionales de Columbia, S.A. v. Hall*, 466 U.S. 408, 4111 (1984). In determining the jurisdictional question, the court must accept the allegations in the complaint as true. *See Altech Industries, Inc. v. Al Tech Specialty Steel Corp.*, 542 F.Supp. 53, 55 (D. Del. 1982).

B. Compliance with the Delaware Long Arm Statute

According to the Delaware long arm statute, a non-resident is deemed to submit to the jurisdiction of the Delaware courts by committing any one of a series of acts. *See* DEL. CODE ANN. § 3104(b). A person can submit himself to Delaware jurisdiction by: (1) transacting any business or performing any character of work within the state; (2) contracting to supply services or things in Delaware; (3) causing tortious injury in Delaware through an act committed in Delaware; (4) causing tortious injury in Delaware through an act committed outside Delaware if the person solicits business in Delaware, engages in regular conduct in Delaware or derives substantial revenue from Delaware contacts; (5) having an interest in, using, or possessing real property in Delaware; or (6) contracting to act as a surety for a contract or other such obligation located, executed, or to be performed within Delaware at the time the contract is made. *See id.* § 3104(c)(1)-(6).

The facts contained in the complaint do not provide a basis for subjecting Pinal to the jurisdiction of the courts of Delaware through its long arm statute. First, the complaint does not allege that Pinal is currently or has ever transacted business in Delaware. Second, there are no allegations that Pinal contracts to supply services in Delaware. Third, even if the alleged injury could be construed as an action for tort damages, it occurred in Mexico, which is outside of this state (and this country). Fourth, although the purported injury occurred outside of Delaware, the complaint does not assert that Pinal derives substantial revenue (or any revenue) from conduct in Delaware, solicits business in Delaware, or engages in regular (or any) conduct in Delaware. Fifth, the complaint fails to adduce facts that would permit the court to find that Pinal has any real property interest in this state. Finally, there is no allegation that Pinal has signed a contract to act as a surety for an obligation that was located, executed, or performed in Delaware. The court therefore finds that personal jurisdiction cannot be obtained over Pinal through the Delaware long arm statute.

C. The Due Process Analysis [2]

As previously stated, to satisfy the constitutional requirements of due process, the court must determine whether Pinal has "minimum contacts" with the state of Delaware. Minimum contacts are not determined according to a fixed formula. *See Transportes Aeros*, 544 F. Supp. at 865. Nevertheless, as previously stated, minimum contacts are usually found where the defendant has purposefully availed himself of the privileges of conducting activities within the state.

The leasehold at issue is located in Mexico, not Delaware. The defendant is alleged to have homes in Mexico and California, but not in Delaware. As previously discussed, the complaint does not allege that the defendant has any significant connections to the state. Indeed, if the allegations of the complaint are accepted as true, it is quite possible that the defendant has never even set foot in Delaware. Thus, the complaint fails to allege that the defendant has any connection to the state of Delaware. Given this lack of connection to the state, Pinal lacks minimum contacts with the state of Delaware. The court therefore finds that the due process guarantee of fair notice would be violated if this suit were allowed to proceed in this forum. *See HMG/Courtland Properties v. Gray*, 729 A.2d 300, 306 (Del. Ch. 1999) ("I have difficulty conceptualizing how [defendants] can be thought to have fair notice that they can be haled into court in Delaware because of . . . their participation in out-of-state conduct.").

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[2] The Delaware long arm statute has been interpreted to be co-extensive with the Due Process Clause. *See, e.g., Transportes Aeros*, 544 F. Supp. at 864-65 (stating that "[f]ederal courts in this district . . . have given an expansive interpretation to the long arm statute, ruling that [the Delaware statute] must be construed as conferring jurisdiction to the maximum perimeters of the due process clause.") (citing cases). Therefore, any finding that there is no personal jurisdiction from a constitutional perspective obviates the need for the court to consider whether there is personal jurisdiction under the statute, and assumedly, vice versa. Nevertheless, the court will briefly discuss the implications of the due process clause in this case.

II. CONCLUSION

For all of the foregoing reasons, the court finds that it lacks personal jurisdiction over the defendant Pinal. The court therefore has no power to hear this case. Thus, it will dismiss the action.[3]

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The court dismisses the plaintiff's complaint for lack of personal jurisdiction.
2. The plaintiff's complaint is DISMISSED WITH PREJUDICE.
3. The clerk shall close this case.

Dated: April 18, 2002

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE

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[3] The court's ruling should in no way be construed as an opinion on the merits of this case or the appropriateness of jurisdiction in another forum.

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of July, 2007, the foregoing Declaration of Steven P. Fricke in Support of Defendant's Motion and Memorandum to Dismiss for Lack of Personal Jurisdiction Pursuant to Civil Rule 12(B)(2) and Improper Venue, or Alternatively, to Transfer and for Plaintiff to Provide a More Definite Statement was filed with the Court using the CM/ECF system which will send notification of such filing to the following:

- Daniel M Bronski
  Veri Trademark
  danny@veritrademark.com
  Attorneys for High Maintenance Bitch

Executed on July 24, 2007.

/s/ Steven P. Fricke

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Seattle, WA 98101-2325
(206) 467-9600
Attorneys for Plaintiffs